

Appropriation: Service Charges, Deposits, and Forfeitures

APPROPRIATION LANGUAGE SHEET

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under Public Law 94-579, as amended, and Public Law 93-153, to remain available until expended: *Provided*, That notwithstanding any provision to the contrary of section 305(a) of Public Law 94-579 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this Act by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such action are used on the exact lands damaged which led to the action: *Provided further*, That any such moneys that are in excess of amounts needed to repair damage to the exact land for which funds were collected may be used to repair other damaged public lands (*Department of the Interior and Related Agencies Appropriations Act, 2004.*).

APPROPRIATION LANGUAGE CITATIONS

30 U.S.C. 185(1)
43 U.S.C. 1652(c)
43 U.S.C. 1719(b)
43 U.S.C. 1734(a)
43 U.S.C. 1734(b)
43 U.S.C. 1735(a)
43 U.S.C. 1737
43 U.S.C. 1764(g)
P.L. 105-83

30 U.S.C. 185(l) states that the applicant for a right-of-way shall reimburse the U.S. for administrative and other costs incurred in processing the application, and that the holder of a right-of-way or permit shall reimburse the U.S. for the costs incurred in monitoring the construction, operation, maintenance, and termination of any pipeline and related facilities on such right-of-way.

43 U.S.C. 1652(c) provides for the cost recovery provision of the Mineral Leasing Act to apply to right-of-way, leases, permits, and other authorizations issued pursuant to this title.

43 U.S.C. 1719(b) (FLPMA §209(b)) provides for conveyance of mineral interests upon payment of administrative costs and that the moneys paid . . . for administrative costs . . . shall be paid to the agency which rendered the service and deposited to the appropriation then current."

43 U.S.C. 1734(a) (FLPMA §304(a)) provides that the Secretary may establish reasonable filing and service fees and reasonable charges, and commissions with respect to applications and other documents relating to the Public Land.

43 U.S.C. 1734(b) (FLPMA §304(b)) provides that the Secretary is authorized to require a deposit of any payments intended to reimburse the U.S. for reasonable costs with respect to applications and other documents relating to such lands. The moneys shall be deposited with the Treasury in a special account and are authorized to be appropriated and made available until expended.

43 U.S.C. 1735(a) (FLPMA §305(a)) provides that any money received by the U.S. as a result of the forfeiture of a bond or other security by a resource developer or purchaser or permittee who does not fulfill the requirements of his contract or permit or does not comply with the regulations of the Secretary, shall be credited to a separate account in the Treasury and is authorized to be appropriated and made available until expended.

43 U.S.C. 1737 (FLPMA §307(c)) provides that the Secretary may accept contributions or donations of money, services, and property, real, personal, or mixed, for the management, protection, development, acquisition, and conveyance of the public land, including the acquisition of rights-of-way for such purposes.

43 U.S.C. 1764(g) (FLPMA §504(g)) provides for payment of rental fees for ROW and for reimbursement of all reasonable administrative and other costs incurred in processing an application for a right-of-way; inspecting and monitoring construction and operations; and terminating the facility pursuant to the right-of-way.

Department of the Interior and Related Agencies Appropriations Act, 2002.

AUTHORIZATIONS

The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734, 1764)

Authorizes the collection of service charges and deposits to finance the costs of certain rights-of-way applications, permitting processes, and restoration activities; authorizes collection for damages, forfeiture of performance bonds, and receipt of deposits to finance the costs of certain land restoration activities. The provision is amended by the appropriations act language for "Services Charges, Deposits and Forfeitures."

The Mineral Leasing Act of 1920, as amended by the Trans-Alaska Pipeline Act of 1973, §101 (30 U.S.C. 185)

Authorizes rights-of-way for oil, gas, and other fuels. It further authorizes the Secretary to issue ROW and other land use authorizations related to the Trans-Alaska Pipeline. Rights-of-way applicants and permittees are to reimburse the U.S. for all costs associated with processing applications and monitoring pipeline construction and operations.

The Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719)

Authorizes the granting of certificates, rights-of-way permits, and leases.

The National Environmental Policy Act of 1969 (42 U.S.C. 4321, 4331-4335, 4341-4347)

Requires the preparation of environmental impact statements for Federal projects that may have a significant effect on the environment.

The Wild Free Roaming Horse and Burro Act of 1971, as amended by the Public Rangelands Improvement Act of 1978 (16 U.S.C. 1331-1340)

Authorizes adoption of wild horses and burros by private individuals under cooperative agreements with the Government.

The Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901-1908)

Establishes the policy of improving Federal rangeland conditions and facilitates the humane adoption or disposal of excess wild free-roaming horses and burros.

SUMMARY OF REQUIREMENTS (\$000)

Comparison by Activity/ Subactivity	2003 Actual		2004 Estimate		Uncontrollable & Related Changes (+/-)		Program Changes (+/-)		2005 Budget Request		Inc(+) Dec(-) from 2004	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Service Charges, Deposits, & Forfeitures	86	15,882	91	19,490	0	0	0	5,000	98	24,490	7	5,000
Offsets		-15,882		-19,490				-5,000		-24,490		-5,000
Right-Of-Way Processing	64	8,550	64	9,500	0	0	0	5,000	64	14,500	0	5,000
Adopt-A-Horse Program	0	811	0	1,225	0	0	0	0	0	1,225	0	0
Repair of Damaged Lands	8	2,785	8	5,000	0	0	0	0	8	5,000	0	0
Cost Recoverable Realty Cases	4	657	4	515	0	0	0	0	4	515	0	0
Timber Contract Expenses	0	66	0	50	0	0	0	0	0	50	0	0
Copy Fee Account	10	3,012	10	3,200	0	0	0	0	10	3,200	0	0

Appropriation: Service Charges, Deposits, and Forfeitures (Indefinite)

ACTIVITY SUMMARY (\$000)

Subactivity	2003 Actual Amount	2004 Estimate Amount	Uncontrollable & Related Changes (+/-) Amount	Program Changes (+/-) Amount	2005 Budget Request Amount	Inc(+) / Dec(-) from 2004 Amount
Right-Of-Way Processing and Energy and Minerals Cost Recovery						
\$	8,550	9,500	0	+5,000	14,500	+5,000
FTE	64	69	0	+7	76	+7
Adopt-A- Horse Program						
\$	811	1,225	0	0	1,225	0
FTE	0	0	0	0	0	0
Repair of Damaged Lands						
\$	2,785	5,000	0	0	5,000	0
FTE	8	8	0	0	8	0
Cost Recoverable Realty Cases						
\$	657	515	0	0	515	0
FTE	4	4	0	0	4	0
Timber Contract Expenses						
\$	66	50	0	0	50	0
FTE	0	0	0	0	0	0
Copy Fee Account						
\$	3,012	3,200	0	0	3,200	0
FTE	10	10	0	0	10	0
Total Dollars	\$					
	15,881	19,490	0	+5,000	24,490	+5,000
FTE	86	91	0	+7	98	+7

PROGRAM OVERVIEW

Subactivity: Rights-Of-Way Processing and Energy and Minerals Cost Recovery– The BLM currently recovers costs for the processing from applicants. These funds are deposited in the Service Charges, Deposits, and Forfeitures account and used by BLM for labor and other expenses of processing rights-of-way applications. In 2005, the BLM will promulgate regulations allowing it to collect processing costs from applicants for energy and mineral permits. Those funds will be spent from this same subactivity.

Rights-Of-Way - ROW processing is funded through a combination of applicant deposits made into this indefinite appropriation and a direct appropriation of funds in the Management of Lands and Resources appropriation--Lands and Realty Management subactivity.

BLM recovers costs for the processing costs of ROW issued pursuant to the *Mineral Leasing Act* and the *Federal Land Policy and Management Act*. Regulations set fee schedules according to the type and size of the project. The regulations allow the BLM to assess applicants for the actual costs to process large scale ROW projects, which are usually for oil and gas pipelines, electric transmission lines, wind energy sites, or other projects associated with energy development. Twenty percent of the rights-of-way applications are for these types of projects.

At least 80 percent of the ROW projects are for short roads, well gathering lines, electric lines, and other smaller scale projects, which cost an average of \$5,000 each to process. For the smaller scale projects, regulations set out a graduated fee schedule which assesses a flat rate depending on the estimated amount of work to process the application. For these projects, the BLM recovers 50 percent of the actual costs of each rights-of-way application. It is estimated that the proposed regulations will allow the BLM to recover 80 percent of the actual costs of these type of applications. This cost recovery proposal, based on the promulgation of new regulations, was proposed as part of the 2004 President's Budget Request; the BLM estimates that it will finalize the new regulations by mid-2004.

Only those costs directly associated with processing an application or issuing a ROW grant are charged to an individual project. Costs of land use planning or studies to determine placement of ROW corridors, and other general costs that are applicable to more than one project, cannot be charged to the individual rights-of-way project. These costs are funded entirely from the MLR appropriation.

The BLM currently maintains more than 84,000 ROW authorizations. The Bureau will continue to expedite the granting of ROWs by processing applications, issuing permits, and monitoring construction involved with the operation and termination of cost-recoverable ROWs on the public land as authorized by the *FLPMA* and the 1973 amendment to the *Mineral Leasing Act*.

Energy and Minerals Cost-Recovery - The BLM plans to publish regulations which will require that industry pay higher fees for document processing of oil and gas leases, coal leases, and other mineral materials leases, in order to recover the true cost of providing access to public lands. With the new regulations, the BLM estimates it will collect an additional \$4,000,000 total for these three programs; therefore, BLM proposes corresponding decrease in each of these programs. Implementing full cost recovery will improve the efficiency and effectiveness of this

component of the energy and minerals program, enabling it to be more timely in its responsiveness to industry demand and workload. The funds collected from this cost recovery regulation will be deposited in this Service Charges, Deposits and Forfeitures account, and expended by the BLM for labor and other costs to process these leases.

2005 PROGRAM CHANGES

	2005 Budget Request	Program Changes (+/-)
\$(000)	14,500	+5,000
FTE	76	+7

Right-of-Way Processing Cost Recovery (+\$1,000,000) – The BLM projects an increase in collections of \$1,000,000 from right-of-way processing, due to the revised cost-recovery regulations the BLM plans to promulgate in 2004, as proposed in the 2004 President's Budget Request with a corresponding reduction in the Land and Realty Management program. The revised regulations will allow the BLM to assess applicants a greater percentage of the actual costs incurred when processing right-of-way applications, up to 80 percent of actual costs for small scale projects, compared to the 50 percent collected under the current regulations.

Oil and Gas Lease Cost Recovery (+ \$3,000,000) - The BLM plans to publish regulations which will require that industry pay higher fees for document processing of oil and gas leases, in order to recover the true cost of providing access to public lands. With the new regulations, the BLM estimates it will collect an additional \$3,000,000; therefore, BLM proposes a decrease of \$3,000,000 in the Oil and Gas Management Program. These new cost recoveries are the result of a PART analysis conducted by Administration in 2003. This evaluation identified the lack of cost recovery as a program design flaw. Implementing full cost recovery will improve the efficiency and effectiveness of this component of the energy and minerals program, enabling it to be more timely in its responsiveness to industry demand and workload.

Coal Cost Recovery (+\$500,000) - In 2003, the Administration used the PART evaluation process to identify strengths and weaknesses of BLM's Energy and Minerals programs. Cost recovery was identified as a program weakness. Based in part on this finding and earlier studies by the Office of Inspector General, BLM plans to publish regulations to allow collection of additional document processing fees from coal lessees. In anticipation of the implementation of these regulations and additional cost recovery capability, the BLM proposes a reduction of \$500,000 in the Coal Management Program. The proposed reduction will not impact the number of documents that will be processed in 2005.

Other Minerals Cost Recovery (+\$500,000) - The BLM plans to publish regulations to allow collection of additional document processing fees from non-energy leases and mineral materials contracts and permits. In anticipation of the implementation of these regulations and additional cost recovery capability in 2005, the BLM proposes a reduction of \$500,000 in the Other Minerals Management Program.

Subactivity: Adopt-a-Horse Program - The BLM conducts adoptions throughout the year for wild horses and burros on public lands. In 2005, the BLM anticipates making 7,600 animals available for adoption to qualified applicants. The BLM places animals in adoption primarily through a competitive bidding process, receiving a minimum of \$125 per horse or burro to offset veterinary, transportation, and animal maintenance costs.

Subactivity: Repair of Damaged Lands - Under the *FLPMA*, the BLM is authorized to collect for land damaged by users who have not fulfilled the requirements of contracts or bonds. If a funding excess exists after repair has been made to the exact land for which funds were collected or forfeited, then BLM may use these funds to improve, protect, or rehabilitate any damaged public land.

Subactivity: Cost-Recoverable Realty Cases - The BLM performs certain types of realty work on a cost-recoverable basis. Regulations promulgated pursuant to the *FLPMA* allow the BLM to collect from applicants the costs of processing applications for realty work such as conveyance of mineral interests; issuance of disclaimers of interest; and issuance and compliance monitoring of many types of land use authorizations through leases, permits, and easements. The BLM will propose new regulations in 2004 to allow recovery of a portion of the costs for *Recreation and Public Purpose Act* lease applications.

Realty actions for which the BLM recovers costs from applicants under current regulations include:

- **Conveyance of Federally Owned Mineral Interests** – The BLM collects costs from applicants to cover administrative costs, including the costs of conducting an exploratory program to determine the type and amount of mineral deposits, establishing the fair market value of the mineral interests to be conveyed, and preparing conveyance documents.
- **Recordable Disclaimers of Interest** – The BLM collects costs from applicants to cover administrative costs, including the costs to determine if the U.S. has an interest in the property or boundary definitions, as well as preparing the riparian specialist's report or preparing and issuing the document of disclaimer.
- **Leases, Permits, and Easements** – The BLM collects costs from applicants to cover administrative costs, including the cost of processing applications, monitoring construction, operating and maintaining authorized facilities, and monitoring rehabilitation and restoration of the land.

Applicants may deposit money in an approved account for the BLM's use in completing specific realty work. These dollars become immediately available to the BLM without further appropriation.

Subactivity: Timber Contract Expenses - Many BLM timber contracts have provisions that allow the purchaser to make cash payments to the BLM in lieu of performing specified work directly. The BLM uses these funds as required by the contract. This involves performing timber slash disposal and reforestation.

Subactivity: Copy Fees - The BLM is the custodian of the official public land records of the U.S. There are 500,000 requests annually from industry, user organizations, and the general public, for copies of these official records. The BLM charges a fee for copies of these documents (maps, plats, field notes, copies of use authorizations, reservations of easements and ROW, serial register pages, and master title plats). This fee covers the cost of research, staff time, and printing.

Budget Schedules

PROGRAM AND FINANCING (MILLION \$)

Identification code: 14-5017-0-2-302		2003 Actual	2004 Estimate	2005 Estimate
Obligations by program activity:				
00.01	Rights-of-way processing	8	11	14
00.02	Adopt-a-horse program	1	1	1
00.03	Repair of lands and facilities	1	2	3
00.04	Cost recoverable realty cases	1	1	1
00.05	Copy fees	3	3	3
10.00	Total obligations	14	18	22
Budgetary resources available for obligation:				
21.40	Unobligated balance available, start of year	13	15	17
22.00	New budget authority (gross)	16	19	19
23.90	Total budgetary resources available for obligations	29	34	41
23.95	Total new obligations	-14	-18	-22
24.4	Unobligated balance carried forward, end of year	15	17	19
New budget authority (gross), detail:				
Discretionary:				
40.20	Appropriation (special fund)	16	19	24
Change in obligated balances:				
72.40	Obligated balance, start of year	3	2	0
73.10	Total new obligations	14	18	22
73.20	Total outlays (gross)	-15	-20	-22
74.40	Obligated balance, end of year	2	0	0
Outlays (gross), detail:				
86.90	Outlays from new discretionary authority	10	10	12
86.93	Outlays from discretionary balances	5	10	10
87.00	Total outlays (gross)	15	20	22
Net budget authority and outlays:				
89.00	Budget authority	16	19	24
90.00	Outlays	15	20	22

OBJECT CLASSIFICATION (MILLION \$)

Identification code: 14-5017-0-2-302		2002 actual	2003 request	2004 estimate
Direct obligations:				
11.1	Personnel compensation: Full-time permanent	4	5	6
11.3	Personnel compensation: Other than full-time permanent	1	1	1
12.1	Civilian personnel benefits	2	2	2
22.0	Transportation of things	1	2	2
25.2	Other services	2	3	4
25.3	Other purchases of goods and services from Gov't accounts	2	3	4
26.0	Supplies and materials	2	2	3
99.9	Total obligations	14	18	22

PERSONNEL SUMMARY

Identification code: 14-5017-0-2-302		2002 actual	2003 request	2004 estimate
Direct program:				
	Full-time equivalent employment	86	91	98